

OPTOMETRY EXAMINERS
CHAPTER 180
BOARD OF OPTOMETRY EXAMINERS
[Prior to 5/18/88, see 470—Chapters 143 and 144]

645—180.1(154) General definitions.

“*Active licensee*” means any person licensed to practice optometry in Iowa who has met all conditions of license renewal and maintains a current license to practice in this state.

“*Board*” means the board of optometry examiners.

“*Department*” means the department of public health.

“*Diagnostically certified optometrist*” means an optometrist who is licensed to practice optometry in Iowa and who is certified by the board of optometry examiners to use cycloplegics, mydriatics and topical anesthetics as diagnostic agents topically applied to determine the condition of the human eye for proper optometric practice or referral for treatment to a person licensed under Iowa Code chapter 148 or 150A.

“*Inactive licensee*” means any person licensed to practice optometry in Iowa who has met all conditions of officially placing their license on inactive status and may not practice optometry until the reinstatement requirements as defined in these rules are met.

“*Licensee*” means any person licensed to practice as an optometrist in the state of Iowa.

“*License renewal biennium*” means July 1 of even-numbered years to June 30 of even-numbered years.

“*Study compliance biennium*” means May 1 of even-numbered years to April 30 of even-numbered years.

“*Therapeutically certified optometrist*” means an optometrist who is licensed to practice optometry in Iowa and who is certified by the board of optometry examiners to use eye-related topical pharmaceutical agents, oral antimicrobial agents, oral antihistamines, oral antiglaucoma agents, oral analgesic agents, and may remove superficial foreign bodies from the human eye and adnexa.

645—180.2(154) Availability of information.

180.2(1) All information regarding rules, forms, time and place of meetings, minutes of meetings, record of hearings, and examination results are available to the public between the hours of 8 a.m. and 4:30 p.m., Monday to Friday, except holidays.

180.2(2) Information may be obtained by writing to the Board of Optometry Examiners, Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075. All official correspondence shall be in writing and directed to the board at this address.

645—180.3(154) Organization of the board and procedures.

180.3(1) A chair, vice chair, and secretary shall be elected at the first meeting after April 30 of each year.

180.3(2) Four board members present shall constitute a quorum.

180.3(3) The board shall hold an annual meeting and may hold additional meetings called by the chair or by a majority of the members of the board.

This rule is intended to implement Iowa Code section 147.22.

645—180.4(154) Conduct for licensure examination. Rescinded IAB 2/10/99, effective 3/17/99.

645—180.5(154) Requirements for licensure.

180.5(1) All applicants shall apply to the Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075.

180.5(2) The forms properly completed shall be filed with the department, together with satisfactory evidence of compliance with Iowa Code sections 154.3(1) and 154.3(2).

180.5(3) An applicant for admission to practice optometry in Iowa shall successfully pass the examinations specified in paragraphs “a” through “c.” Examination results from the examination of the National Board of Examiners in Optometry and the examination of the International Board of Examiners in Optometry on “The Treatment and Management of Ocular Disease” (incorporated into the N.B.E.O. examination effective April 1993) shall be valid for ten years prior to date of application. An applicant shall present a diploma from an accredited school or college of optometry and, if the applicant graduated from optometry school prior to January 2, 1988, shall submit proof of satisfactory completion of all educational requirements contained in Iowa Code chapter 154.

a. All parts of the examination of the National Board of Examiners in Optometry in effect at the time of application;

b. The examination of the National Board of Examiners in Optometry (formerly given by the International Board of Examiners in Optometry) on “Treatment and Management of Ocular Disease.” This paragraph does not apply to those applicants taking the examination of the National Board of Examiners in Optometry after January 1, 1993; and

c. The Iowa jurisprudence examination. Successful completion of the jurisprudence examination requires a minimum score of 75 percent.

d. An applicant must provide an official verification from each state board of examiners in which applicant is currently or formerly licensed, regarding the status of the applicant’s license, including issue date, expiration date and information regarding any pending or prior investigations or disciplinary action.

e. Incomplete applications will be held in office files for three years. Applicants will be required to reapply after that time span.

180.5(4) Diagnostic certification. Those persons licensed to practice optometry in Iowa before January 2, 1980, who apply to be a diagnostically certified licensed optometrist shall earn a grade of not less than 70 percent on the examination prescribed by the Iowa state board of optometry examiners. The examination shall be in the subjects of physiology and pathology appropriate to the use of diagnostic pharmaceutical agents and diagnosis of conditions of the human eye, and pharmacology including systemic effects of ophthalmic diagnostic pharmaceutical agents authorized for use by optometrists by Iowa Code section 154.1.

180.5(5) Therapeutic certification.

a. This paragraph applies to all optometrists graduating after January 2, 1986, and prior to January 2, 1988. As a prerequisite to taking the examination described in subrule 180.5(3)“c,” an applicant for admission to practice optometry in Iowa may only apply to be a therapeutically certified optometrist and, if requested by the board, shall supply certification that the applicant’s optometric education and training meet or exceed the requirements of the state of Iowa as outlined in Iowa Code section 154.3(5).

b. A person licensed to practice optometry in any state prior to January 1, 1986, who applies to be a therapeutically certified optometrist shall first satisfactorily complete a course provided by an institution accredited by a regional or professional accreditation organization which is recognized or approved by the council on postsecondary accreditation of the United States Department of Education, and approved by the Iowa state board of optometry examiners, which has particular emphasis on the examination, diagnosis and treatment of conditions of the human eye and adnexa. The course shall include a minimum of 40 hours of didactic education and 60 hours of approved supervised clinical training in the examination, diagnosis, and treatment of conditions of the human eye and adnexa.

c. The board also requires that all therapeutically certified optometrists, prior to the utilization of pharmaceutical agents authorized by Iowa Code chapter 154, shall complete an additional 44 hours of education with emphasis on treatment and management of glaucoma and use of oral pharmaceutical agents for treatment and management of ocular diseases, provided by an institution accredited by a regional or professional accreditation organization which is recognized or approved by the council on postsecondary accreditation of the United States Department of Education, and approved by the board of optometry examiners. Upon completion of the additional 44 hours of education, a therapeutically certified optometrist shall also pass an oral or written examination which emphasizes the diagnosis, treatment, and management of glaucoma, ocular disease, and systemic disease which affect the eye. The board shall suspend the optometrist’s therapeutic certificate according to the procedures outlined in subrule 180.5(6) in the event the optometrist fails to comply with this paragraph by July 1, 1988. Beginning July 1, 1988, additional continuing education is required as study compliance for license renewal as specified in subrule 180.12(2).

180.5(6) The board shall suspend an optometrist’s therapeutic certificate for failure to comply with subrule 180.5(5)“c” by July 1, 1988.

a. When it comes to the board’s attention that an optometrist therapeutically certified by July 1, 1988, has failed to comply with subrule 180.5(5)“c” by July 1, 1988, the board shall take the following steps.

(1) The board shall notify the licensee of being placed on suspension due to the licensee’s failure to be in compliance with subrule 180.5(5)“c.” Notice shall be served by restricted certified mail, return receipt requested, or by personal service.

(2) Any requests for appeal concerning the suspension shall be submitted by the aggrieved party, in writing, to the Iowa board of optometry examiners by certified mail, return receipt requested, within 20 days of the receipt of the board’s notice. The address is: Iowa Board of Optometry Examiners, Iowa Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075. If a request is made within the 20-day time period, the notice shall be deemed suspended. If no request for appeal is received within the 20-day time period, the board’s notice of suspension shall become the board’s final agency action.

(3) Upon the board's receipt of a request for a hearing, the board shall prepare a notice of hearing and transmit the notice to the licensee by certified mail, return receipt requested, at least 10 days before the date of the hearing.

(4) The board shall conduct the hearing in accordance with rule 180.108(272C) and may authorize an administrative hearing officer to assist it with conducting the hearing.

(5) After the hearing, the board shall affirm, modify, or set aside the suspension.

(6) Prior to or at the hearing, the board may rescind the notice of suspension upon satisfaction that the reason for the suspension has been resolved.

b. Unless otherwise specified, the suspension, originally noticed, shall exist until the therapeutically certified licensee has completed the requirements of subrule 180.5(5) "c" and proven completion to the board.

This rule is intended to implement Iowa Code sections 147.34, 147.36 and 154.3.

645—180.6(154) Licensure by endorsement. The following requirements must be satisfied prior to licensure to practice optometry in Iowa through the procedure of licensure by endorsement.

180.6(1) Application for licensure by endorsement to practice optometry in this state shall be made to the optometry board on the form provided by the board and must be completely filled out.

180.6(2) Applications must be filed with the board along with:

a. Proof of graduation with a doctor of optometry degree from an accredited school or college of optometry in a state, territory, or district of the United States and, in the case of foreign graduates, adhere to the standards presently accepted by the National Board of Examiners in Optometry.

b. Evidence of successful completion of the examination of the National Board of Examiners in Optometry.

c. Rescinded IAB 7/30/97, effective 9/3/97.

d. Evidence that the applicant's training and ability to practice optometry are equivalent to or higher than those currently required by this state as provided in subrule 180.5(5), paragraphs "a," "b," and "c."

e. Evidence of a current, valid license to practice optometry in another state, territory or district of the United States that has a similar scope of practice to this state.

f. Certification of good standing and competent practice of optometry by a state board of optometry, or equivalent authority, from the state in which the applicant has been licensed for at least five years immediately preceding the date of application, and evidence of having engaged in the active practice of optometry in that state for five years immediately preceding the date of application, or evidence of five years of practice satisfactory to the board.

The board may waive the requirement of five years' active practice if during the above-mentioned five-year period, the applicant was:

- (1) Teaching optometry;
- (2) A military optometrist;
- (3) A supervisory or administrative optometrist; or
- (4) A researcher in optometry.

g. Certification by the state board or boards of optometry, or equivalent authority in which applicant holds an optometry license, that the applicant has not been the subject of final or pending disciplinary action.

h. Rescinded IAB 7/30/97, effective 9/3/97.

i. Statement as to any claims, complaints, judgments or settlements, pending or final, made with respect to the applicant arising out of the alleged negligence or malpractice in rendering professional services as an optometrist.

j. Submission of a copy of the current optometry licensing law and regulation of the jurisdiction in which the applicant presently practices or has been licensed for the previous five years.

k. The fee for licensure by endorsement as specified in rule 180.10(147) shall be made payable to the Iowa State Board of Optometry Examiners. Application fees are nonrefundable.

180.6(3) Rescinded IAB 7/30/97, effective 9/3/97.

180.6(4) The board shall require each applicant to successfully complete an Iowa optometry law written examination at an appropriate time and location as specified by the board.

180.6(5) Application must be signed and verified as to the truth of the statements contained in the application. The license, if issued, may be revoked upon evidence of misinformation or substantial omission.

This rule is intended to implement Iowa Code sections 147.2, 147.29, 147.54, 147.80, and 154.3.

645—180.7(154) Diagnostic pharmaceutical agents.

180.7(1) Those persons licensed to practice optometry before January 2, 1980, who apply to be a certified licensed optometrist shall receive a grade of not less than 70 percent on the examination prescribed by the board of optometry examiners to pass the test.

180.7(2) The examination shall be in the subjects of physiology and pathology appropriate to the use of diagnostic pharmaceutical agents and diagnosis of conditions of the human eye, and pharmacology including systemic effects of ophthalmic diagnostic pharmaceutical agents and the possible adverse reactions thereto, authorized for use by optometrists by Iowa Code section 154.1.

This rule is intended to implement Iowa Code section 154.3(4).

645—180.8(154) Notice of address.

180.8(1) Before engaging in the practice of optometry, each optometrist shall notify the board in writing by United States mail of the address where the optometrist is to engage, or intends to engage, in the practice of optometry. If the optometrist intends to practice in more than one office, the notification shall include the address of each office.

180.8(2) Each optometrist shall as a part of the renewal application notify the board in writing of the address where the licensee is engaged in the practice of optometry. In the event that the licensee is not engaged in the practice of optometry this shall be noted and the home address provided by the licensee. If the optometrist practices in more than one office, the notification shall include the address of each office.

180.8(3) Each optometrist shall notify the board in writing by United States mail of a change of address of the licensee's residence and where the licensee is engaged in the practice of optometry within 30 days after the change of address.

180.8(4) Each optometrist shall keep the optometry license publicly displayed in the primary place of practice. For purposes of this rule, primary place of practice is that office in which the optometrist practices the greatest number of hours.

This rule is intended to implement Iowa Code section 272C.3.

645—180.9(154) Furnishing prescriptions. Each contact lens or ophthalmic spectacle lens/eyeglass prescription by a licensed optometrist must meet requirements as listed.

180.9(1) A contact lens prescription shall contain the following information.

- a.* Date of issuance.
- b.* Name and address of patient for whom the contact lens is prescribed.
- c.* Name, address, and signature of the practitioner.
- d.* All parameters required to duplicate properly the original contact lens.

e. A specific date of expiration, not to exceed 18 months; the quantity of lenses allowed and the number of refills allowed.

f. At the option of the prescribing practitioner, the prescription may contain fitting and material guidelines and specific instructions for use by the patient.

180.9(2) Release of contact lens prescription.

a. After the contact lenses have been adequately adapted and the patient released from initial follow-up care by the prescribing doctor, the patient may request a copy of the contact lens prescription, at no cost, for the duplication of the original contact lens.

b. A practitioner choosing to issue an oral prescription shall furnish the same information required for the written prescription except the written signature and address of the practitioner. An oral prescription may be released by an O.D. to any dispensing person who is a licensed professional with the O.D., M.D., D.O., R.Ph. degree or a person under direct supervision of those licensed under Iowa Code chapters 148, 150, 150A, 154 and 155A.

c. The issuing of an oral prescription must be followed by a written copy to be kept by the dispenser of the contact lenses until the date of expiration.

180.9(3) An ophthalmic spectacle lens prescription shall contain the following information.

a. Date of issuance.

b. Name and address of the patient for whom the ophthalmic lens or lenses are prescribed.

c. Name, address, and signature of the practitioner issuing the prescription.

d. All parameters necessary to duplicate properly the ophthalmic lens prescription.

e. A specific date of expiration not to exceed two years.

f. A dispenser of ophthalmic materials, in spectacle or eyeglass form, must keep a valid copy of the prescription on file for two years.

180.9(4) Release of ophthalmic lens prescription.

a. The ophthalmic lens prescription shall be furnished upon request at no additional charge to the patient.

b. The prescription, at the option of the prescriber, may contain adapting and material guidelines and may also contain specific instructions for use by the patient.

c. Spectacle lens prescriptions must be in written format, according to Iowa Code section 147.109(1).

645—180.10(147) Board of optometry examiners. All fees are nonrefundable.

180.10(1) Application for license to practice optometry is \$250.

180.10(2) Renewal of license to practice optometry or reinstatement of inactive license for a biennial period is \$120.

180.10(3) Fee for a certified statement that a licensee is licensed in this state is \$10.

180.10(4) Fee for a duplicate license is \$10.

180.10(5) Late fee for renewal or reinstatement of a license to practice optometry is:

a. If applying up to 60 days after expiration date: \$100 late renewal fee, plus the renewal fee.

b. If applying 60 days or more after expiration date: \$200 lapsed or revoked license reinstatement fee, plus the renewal fee.

180.10(6) Penalty fee, in addition to the renewal fee, for failure to complete the continuing education by the end of the continuing education period is \$200.

180.10(7) Fee for application for licensure by endorsement is \$275.

This rule is intended to implement Iowa Code section 147.80.

645—180.11(17A) Declaratory rulings. Rescinded IAB 10/16/91, effective 11/20/91. See 645—Chapter 187.

STUDY COMPLIANCE FOR LICENSE RENEWAL
AND REINSTATEMENT AND DISCIPLINARY PROCEDURES
[Prior to 5/18/88, see 470—Chapter 144]

645—180.12(154) General.

180.12(1) The optometric license renewal study compliance biennium shall extend for a two-year period between May 1 and April 30 of even-numbered years during which period attendance at approved study sessions, educational programs, and courses approved by the board of examiners may be used as evidence of compliance in fulfillment of continuing education study requirements for the subsequent license renewal biennium which begins July 1 and expires June 30 of even-numbered years. Completion of continuing education requirements is a prerequisite for license renewal. The cost of continuing education is the responsibility of the licensee.

a. Requirements for nontherapeutically certified optometrists. Beginning with the continuing education period from June 1, 1984, to May 31, 1986, and each biennium thereafter, each person who is licensed to practice as an optometrist in this state and who is not therapeutically certified shall be required to complete a minimum of 30 hours of continuing education approved by the board. Not more than 18 hours of continuing education shall be credited during any 12-month period, from May 1 to April 30.

Nontherapeutically certified optometrists can comply with Iowa study compliance rules for license renewal and reinstatement by meeting the continuing education requirements of the licensee's place of practice.

b. Requirements for therapeutically certified optometrists. Beginning with the continuing education period from May 1, 1988, to April 30, 1990, and each biennium thereafter, each person who is licensed to practice as a therapeutically certified optometrist in this state shall be required to complete a minimum of 50 hours of continuing education approved by the board. A minimum of 20 hours of continuing education per biennium shall be in the treatment and management of ocular disease. Not more than 30 hours of continuing education shall be credited during any 12-month period, from May 1 to April 30.

Therapeutically certified optometrists must comply with Iowa study compliance rules for license renewal and reinstatement regardless of the licensee's place of residence or place of practice.

c. Rescinded IAB 2/26/97, effective 4/2/97.

d. Effective July 1, 1996, on the initial licensing renewal, the licensee must obtain at least four hours of continuing education in cardiopulmonary resuscitation (CPR). A licensee who has current certification in CPR as of the date of the initial license renewal, by the American Red Cross (Community CPR), the American Heart Association (Module C for health care providers) or an equivalent organization shall be deemed to meet this requirement.

180.12(2) Rescinded IAB 5/17/89, effective 4/20/89.

180.12(3) The required number of study hours may be obtained by one or more of the following methods:

a. The continuing education programs of the Iowa optometric association, the American Optometric Association, the American Academy of Optometry, and national regional optometric congresses.

b. Postgraduate study sessions or seminars by an accredited school or college of optometry.

c. Local study group programs approved by the board; study groups shall meet a minimum of six times per year. A maximum of one hour credit per meeting shall be given for each meeting unless prior approval is granted by the board for additional credit. A maximum of 12 hours of credit will be allowed for each continuing education biennium with no more than 7 hours allowed in any one year of the continuing education biennium.

d. Other meetings or seminars either within or without the state of Iowa may be approved in advance by the board with request for approval to be made to the board at least 30 days prior to the meeting or seminar. These meetings or seminars must have approval and be certified for optometric continuing education by the International Association of Board of Examiners in Optometry's Council on Optometric Practitioner Education Committee (COPE). Providers of COPE-approved continuing education must be approved by the board as having education as one of their primary functions.

e. Correspondence courses, which include written and electronic transmitted material and have a postcourse test, may be used for a maximum of ten hours' credit for each biennium. Certification of the continuing education requirements and of passing the test must be given by the institution providing the continuing education, and that institution must be accredited by a regional or professional accreditation organization which is recognized or approved by the Council on Postsecondary Accreditation of the United States Department of Education, and approved by the board of optometry examiners.

f. Practice management courses may be used for a maximum of six hours' credit for each biennium.

g. Dependent adult abuse or child abuse identification and reporting training may be used for a maximum of two hours' credit for each biennium.

h. In cases of extenuating circumstances, study material which is specified and approved in advance by the board.

i. The department of ophthalmology of the school of medicine of the State University of Iowa shall be one of the providers of continuing education for Iowa optometrists. Licensees may apply no more than 20 hours of continuing education for the treatment and management of ocular disease obtained at the University of Iowa toward license renewal. No more than 12 hours obtained in any one year of the licensing compliance period may apply toward renewal.

j. A licensee who has current certification in CPR, as of the date of license renewal, by the American Red Cross (Community CPR), the American Heart Association (Module C for health care providers) or an equivalent organization may apply a maximum four hours' credit for each biennium.

180.12(4) Certification to the board of attendance at any of the foregoing shall be submitted within 30 days of the meeting by the secretary or chairperson of the organization or group sponsoring the meeting, the dean of optometry school, or in the case of special meetings approved by the board, a person so designated by the board.

180.12(5) Failure to renew within 60 days shall cause the license to lapse. In case of an emergency which prohibited timely renewal by the licensee, disciplinary actions may be waived at the discretion of the board after an interview with the licensee. A person who allows the license to lapse may apply to the board for reinstatement of the license. Applicants to be considered for reinstatement shall complete a reinstatement application, satisfy Iowa requirements for continuing education study hours for each year the Iowa license was not renewed, pay renewal fees for each year the Iowa license was not renewed, and pay the reinstatement fee as provided by rule 645—180.10(147). Reinstatement of the lapsed license may be granted by the board if the applicant:

- a.* Submits a written application for reinstatement to the board; and
- b.* Pays all of the renewal fees then due; and
- c.* Pays all penalty fees (see 180.10(5) and 180.10(6)) which have been assessed by the board for failure to renew; and

d. Provides evidence of satisfactory completion of continuing education requirements during the period since the license lapsed. The total number of continuing education hours required for license reinstatement is computed by multiplying 25 for therapeutically certified optometrists or 15 for non-therapeutically certified optometrists by the number of years (or quarterly fraction thereof) since the license lapsed. If the license has lapsed for more than five years, the applicant shall successfully pass the Iowa state optometry jurisprudence examination with a minimum grade of 75 percent.

180.12(6) If a new licensee is licensed during the first year of the biennial continuing education period, the licensee is required to complete only 25 hours of continuing education for renewal. If a new licensee is licensed during the second year of the biennial continuing education period, the licensee will be exempt from meeting continuing education requirements for the first license renewal. The new licensee will be required to complete a minimum of 50 hours of continuing education per biennium for each subsequent license renewal.

180.12(7) Standards for approval. A continuing education activity shall be qualified for approval if the board determines that:

a. It constitutes an organized program of learning which contributes directly to the professional competency of the licensee; and

b. It pertains to subject matter which integrally relates to the practice of optometry; and

c. It is conducted by individuals who have special education, training and experience by reason of which said individuals should be considered experts concerning the subject matter of the program.

180.12(8) Records and reports. Each licensee shall maintain an adequate record of continuing education compliance for four years following the end of the biennium in which the education was obtained. The continuing education record should include the name of the sponsoring organization, the licensee's name and address, the license number, the date, the course title, the lecturer, the number of clock hours of education, the education category and certificates of attendance.

At the time of license renewal, the licensee will submit on a form supplied by the board a report of continuing education activities together with a sworn statement that the licensee has fulfilled the continuing education compliance requirements for the biennium. No license shall be renewed without this report and sworn statement.

The board reserves the right to require, if it so elects, any licensee to submit, in addition to such report, further evidence satisfactory to the board demonstrating compliance with the continuing optometric education requirements herein provided. The board also reserves the right to audit any licensee's continuing education records at any time. Licensees who are audited will be chosen in a random manner or at the discretion of the board. Falsifying reports or failure to meet continuing education requirements may result in formal disciplinary action.

645—180.13(154) Local study groups.

180.13(1) Application to establish an authorized study group must be filed with the secretary of the board by April 30 for subsequent study compliance biennium May 1 to April 30. Late applications may be accepted at the discretion of the board and for good cause.

180.13(2) Each study group must apply to and be approved by the board of optometry examiners each study compliance period on appropriate forms to be obtained from the secretary of the board.

180.13(3) Failure of a study group to apply to and be approved by the board during any study compliance period will render attendance at the unapproved study group invalid as evidence for study compliance for license renewal for the subsequent license period.

180.13(4) An application for study group recognition will not be approved if the proposed meeting place is within 25-mile radius of the meeting place of an already existing study group.

180.13(5) No study group will be recognized that does not maintain a minimum membership of eight optometrists. The average attendance must be six optometrists per meeting. Each study group shall meet a minimum of six times per year. A maximum of one hour credit per meeting shall be given for each meeting unless prior approval is granted by the board for an additional amount of credit. A certificate of attendance shall be provided to each licensee in attendance at each meeting of the study group. The certificate shall include the name of the study group, the date of the meeting, the topic of study, the name of the speaker, and the signature of the study group chairperson or secretary.

To obtain continuing education credit, a written report stating the name of the study group, the date of the meeting, the location of the meeting, the topic of study, the name of the speaker or speakers, and the signature of the study group chairperson or secretary must be submitted to the continuing education secretary of the Iowa board of optometry examiners within two weeks following the study group meeting. The study group chairperson or secretary must retain an attendance form signed by each licensee in attendance at each study group meeting until the end of each license biennium.

This rule is intended to implement Iowa Code sections 147.80 and 272C.2.

645—180.14(154,272C) Definitions. Rescinded IAB 1/6/93, effective 2/10/93. Text transferred to 645—180.1(154).

645—180.15(154,272C) Continuing education exemptions for inactive practitioners. A licensee who is not engaged in practice in the state of Iowa residing within or without the state of Iowa may be granted a waiver of continuing education compliance and obtain a certificate of exemption upon written application to the board. The application shall contain a statement that the applicant will not engage in the practice of optometry in Iowa without first complying with all regulations governing reinstatement after exemption. The application for a certificate of exemption shall be submitted upon forms provided by the board.

This rule is intended to implement Iowa Code section 272C.2.

645—180.16(154,272C) Continuing education exemption for physical disability or illness. The board may, in individual cases involving physical disability or illness, grant waivers of the minimum education requirements or extensions of time within which to fulfill the same or make the required reports. No waiver or extension of time shall be granted unless written application therefor shall be made on forms provided by the board and signed by the licensee and appropriate licensed health care practitioners. Waiver of the minimum educational requirements may be granted by the board for any period of time not to exceed one calendar year from the onset of the disability or illness. In the event that the physical disability or illness upon which a waiver has been granted continues beyond the period of waiver, the licensee must reapply for an extension of the waiver. The board may, as a condition of any waiver granted, require the applicant to make up a certain portion or all of the minimum educational requirements waived by such methods as may be prescribed by the board.

645—180.17(154,272C) Reinstatement of inactive practitioners. Inactive practitioners who have been granted a waiver of compliance with these rules and obtained a certificate of exemption shall, prior to engaging in the practice of optometry in the state of Iowa, satisfy the following requirements for reinstatement.

180.17(1) Submit written application for reinstatement to the board upon forms provided by the board with the appropriate reinstatement fee; and

180.17(2) Furnish in the application evidence of one of the following:

a. The full-time practice of optometry in another state of the United States or the District of Columbia and completion of continuing education for each year of inactive status substantially equivalent in the opinion of the board to that required under these rules; or

b. Completion of a total number of hours of accredited continuing education computed by multiplying 15 for nontherapeutically certified optometrists or 25 for therapeutically certified optometrists by the number of years (or quarterly fraction thereof) a certificate of exemption shall be in effect for such applicant; or

c. Successful completion of any or all parts of the Iowa state license examination as deemed necessary by the board, conducted within one year immediately prior to the submission of such application for reinstatement.

645—180.18(154,272C) Continuing education exemption for active practitioners. An optometrist licensed to practice optometry shall be deemed to have complied with the continuing education requirements of this state during the period that the licensee serves honorably on active duty in the military services as a practicing optometrist, or for nontherapeutically certified optometrists for periods that the licensee is a government employee practicing optometry and assigned to duty outside of the United States, or for other periods of active practice and absence from the state approved by the board.

These rules are intended to implement Iowa Code section 272C.2.

645—180.19 to 180.99 Reserved.

645—180.100(272C) Definitions. Rescinded IAB 1/6/93, effective 2/10/93. Text transferred to 645—180.1(154).

645—180.101(272C) Complaint. A complaint of a licensee's professional misconduct shall be made in writing by any person to the Board of Optometry Examiners, Licensing and Certification Section, Lucas State Office Building, Des Moines, Iowa 50319-0075. The complaint shall include complainant's address and telephone number, be signed and dated by the complainant, shall identify the licensee, and shall give the address and any other information about the licensee which the complainant may have concerning the matter.

645—180.102(272C) Report of malpractice claims or actions. Each licensee shall submit a copy of any judgment or settlement in a malpractice claim or action to the board within 30 days after the occurrence at the address given in rule 645—180.101(272C).

645—180.103(272C) Investigation of complaints or malpractice claims. The chair of the board of optometry examiners shall assign an investigation of a complaint or malpractice claim to a member of the board who will be known as the investigating board member or may request the department of public health to investigate the complaint or malpractice claim. The investigating board member or employee of the department may request information from any peer review committee which may be established to assist the board. The investigating board member or employee of the department may consult with an administrative hearing officer or assistant attorney general concerning the investigation on evidence produced from the investigation. The investigating board member, if the board member investigates the complaint, the director of the licensing and certification section, an administrative hearing officer or an assistant attorney general if the department investigates the complaint, shall make a written determination whether there is probable cause for a disciplinary hearing. The investigating board member shall not take part in the decision of the board, but may appear as a witness.

645—180.104(154) Alternative procedure and settlements.

180.104(1) A disciplinary hearing before the licensing board is an alternative to the procedure provided in Iowa Code sections 147.58 to 147.71.

180.104(2) Informal settlement—parties.

a. A contested case may be resolved by informal settlement. Negotiation of an informal settlement may be initiated by the state of Iowa represented by the prosecuting attorney, the respondent or the board. The board may designate a board member with authority to negotiate on behalf of the board.

b. The board is not involved in negotiation until presentation of a final, written form to the full board for approval.

180.104(3) Informal settlement—waiver of notice and opportunity to be heard. Consent to negotiation by the respondent constitutes a waiver of notice and opportunity to be heard pursuant to Iowa Code section 17A.17 during informal settlement negotiation. Thereafter, the prosecuting attorney is authorized to discuss informal settlement with the board's designee.

180.104(4) Informal settlement—board approval. All informal settlements are subject to approval of a majority of the full board. No informal settlement shall be presented to the board for approval except in the final, written form executed by the respondent. If the board fails to approve the informal settlement, it shall be of no force or effect to either party.

180.104(5) Informal settlement—disqualification of designee. A board member who is designated to act in negotiation of an informal settlement is not disqualified from participating in the adjudication of the contested case.

645—180.105(272C) License denial. Any request for a hearing before the board concerning the denial of a license shall be submitted by the applicant in writing to the board at the address in rule 180.101(272C) by certified mail, return receipt requested, within 30 days of the mailing of a notice of denial of license.

645—180.106(272C) Notice of hearing. If there is a finding of probable cause for a disciplinary hearing by the investigating board member or by the department, the department shall prepare the notice of hearing and transmit the notice of hearing to the respondent by certified mail, return receipt requested, at least ten days before the date of the hearing.

645—180.107(272C) Hearings open to the public. A hearing of a licensing board concerning a licensee or an applicant shall be open to the public unless the licensee or the applicant or the individual's attorney requests in writing that the hearing be closed to the public.

645—180.108(272C) Hearings. The board adopts the rules of the department of public health found in 641—Chapter 173, IAC, as the procedure for hearings before the board. The board may authorize an administrative hearing officer to conduct the hearings, administer oaths, issue subpoenas, and prepare written findings of fact, conclusions of law and decisions at the direction of the board. If a majority of the board does not hear the disciplinary proceeding, a recording or a transcript of the proceeding shall be made available to members of the board who did not hear the proceeding.

645—180.109(272C) Appeal. Any appeal to the district court from disciplinary action of the board or denial of license shall be taken within 30 days from the issuance of the decision by the board. It is not necessary to request a rehearing before the board to appeal to the district court.

645—180.110(272C) Transcript. The party who appeals a decision of the board to the district court shall pay the cost of the preparation of a transcript of the administrative hearing for the district court.

645—180.111(272C) Publication of decisions. Final decisions of the board relating to disciplinary proceedings shall be transmitted to the appropriate professional association, the news media and employer.

645—180.112(272C) General. The board has the authority to impose discipline for any violation of Iowa Code chapters 147, 154, 272C or the rules promulgated thereunder.

645—180.113(272C) Method of discipline. The board has authority to impose the following disciplinary sanctions:

1. Revoke a license.
2. Suspend a license until further order of the board or for a specified period.
3. Prohibit permanently, until further order of the board or for a specified period, the engaging in specified procedures, methods or acts.
4. Place a licensee on probation.
5. Require additional education, training or treatment.
6. Require a reexamination.
7. Impose civil penalties not to exceed maximum allowed by law.
8. Issue citation and warning.
9. Impose such other sanctions allowed by law as may be appropriate.

645—180.114(272C) Discretion of board. The following factors may be considered by the board in determining the nature and severity of the disciplinary sanction to be imposed:

1. The relative seriousness of the violation as it relates to assuring the citizens of this state a high standard of professional care.
2. The facts of the particular violation.
3. Any extenuating circumstances or other countervailing considerations.
4. Number of prior violations.
5. Seriousness of prior violations.
6. Whether remedial action has been taken.
7. Such other factors as may reflect upon the competency, ethical standards and professional conduct of the licensee.

645—180.115(272C) Grounds for discipline. The board may impose any of the disciplinary sanctions set forth in rule 180.113(272C), including civil penalties in an amount not to exceed \$1,000 or maximum allowed, when the board determines that the licensee is guilty of any of the following acts or offenses:

180.115(1) Fraud in procuring a license. Fraud in procuring a license includes, but is not limited to, an intentional perversion of the truth in making application for a license to practice optometry in this state, and includes false representations of a material fact, whether by word or by conduct, by false or misleading allegations, or by concealment of that which should have been disclosed when making application for a license in this state, or attempting to file or filing with the board or the Iowa department of public health any false or forged diploma, or certificate or affidavit or identification or qualification in making an application for a license in this state.

180.115(2) Professional incompetency. Professional incompetency includes, but is not limited to:

a. A substantial lack of knowledge or ability to discharge professional obligations within the scope of the optometrist's practice;

b. A substantial deviation by the optometrist from the standards of learning or skill ordinarily possessed and applied by other optometrists in the state of Iowa acting in the same or similar circumstances;

c. Failure by an optometrist to exercise in a substantial respect that degree of care which is ordinarily exercised by the average optometrist in the state of Iowa acting in the same or similar circumstances;

d. A willful or repeated departure from or the failure to conform to the minimal standard of acceptable and prevailing practice of optometry in the state of Iowa.

180.115(3) Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of a profession or engaging in unethical conduct or practice harmful or detrimental to the public. Proof of actual injury need not be established.

a. Practice harmful or detrimental to the public includes, but is not limited to, the failure of an optometrist to possess and exercise that degree of skill, learning and care expected of a reasonable, prudent optometrist acting in the same or similar circumstances in this state.

b. Practice harmful or detrimental to the public includes, but is not limited to, the use of a rubber stamp to affix a signature to a prescription. A person who is unable, due to a physical handicap, to make a written signature or mark, however, may substitute, in lieu of a signature, a rubber stamp which is adopted by the handicapped person for all purposes requiring a signature and which is affixed by the handicapped person or affixed by another person upon the request of the handicapped person and in that person's presence.

c. Practice harmful or detrimental to the public includes, but is not limited to, the practice of maintaining any prescribed prescription which is intended to be completed and issued at a later time.

180.115(4) Habitual intoxication or addiction to the use of drugs. The inability of an optometrist to practice optometry with reasonable skill and safety by reason of the excessive use of alcohol, drugs, narcotics, chemicals or other type of material on a continuing basis, or the excessive use of alcohol, drugs, narcotics, chemicals or other type of material which may impair an optometrist's ability to practice the profession with reasonable skill and safety.

180.115(5) Conviction of a felony related to the profession or occupation of the licensee, or the conviction of any felony that would affect the licensee's ability to practice within a profession. A copy of the record of conviction or plea of guilty shall be conclusive evidence.

Conviction of a felony related to the profession or occupation of the licensee or the conviction of any felony that would affect the licensee's ability to practice within a profession includes, but is not limited to, the conviction of an optometrist who has committed a public offense in the practice of the profession which is defined or classified as a felony under state or federal law, or who has violated a statute or law designated as a felony in this state, another state, or the United States, which statute or law relates to the practice of optometry, or who has been convicted of a felonious act, which is so contrary to honesty, justice or good morals, and so reprehensible as to violate the public confidence and trust imposed upon an optometrist in this state.

180.115(6) Use of untruthful or improbable statements in advertisements. This includes, but is not limited to, an action by an optometrist, or on behalf of an optometrist, in making information or intention known to the public which is false, deceptive, misleading or promoted through fraud or misrepresentation and includes statements which may consist of, but are not limited to:

a. Inflated or unjustified expectations of favorable results.

b. Self-laudatory claims that imply that the optometrist is a skilled optometrist engaged in a field or specialty of practice for which the optometrist is not qualified.

c. Extravagant claims or proclaiming extraordinary skills not recognized by the optometric profession.

180.115(7) Willful or repeated violations of the provisions of these rules and Iowa Code chapter 147.

180.115(8) Violating a regulation or law of this state, or the United States, which relates to the practice of optometry.

180.115(9) Failure to report a license revocation, suspension or other disciplinary action taken by a licensing authority of another state, district, territory or country within 30 days of the final action by such licensing authority. A stay by an appellate court shall not negate this requirement; however, if such disciplinary action is overturned or reversed by a court of last resort, such report shall be expunged from the records of the board.

180.115(10) Failure of a licensee or an applicant for licensure in this state to report any voluntary agreements to restrict the practice of optometry entered into in another state, district, territory or country.

180.115(11) Knowingly aiding, assisting, procuring, or advising a person to unlawfully practice optometry.

180.115(12) Failure to identify oneself as an optometrist to the public.

180.115(13) Violating a lawful order of the board, previously entered by the board in a disciplinary hearing or pursuant to informal settlement.

180.115(14) Being adjudged mentally incompetent by a court of competent jurisdiction.

180.115(15) Making suggestive, lewd, lascivious or improper remarks or advances to a patient.

180.115(16) Indiscriminately or promiscuously prescribing, administering or dispensing any drug for other than lawful purpose. Indiscriminately or promiscuously prescribing, administering or dispensing includes, but is not limited to, the prescribing, administering or dispensing any drug for purposes which are not eye or vision related.

180.115(17) Knowingly submitting a false report of continuing education or failure to submit the biennial report of continuing education.

180.115(18) Failure to comply with a subpoena issued by the board.

180.115(19) Failure to file the reports required by rule 645—180.101(272C) concerning acts or omissions committed by another licensee.

180.115(20) Obtaining any fee by fraud or misrepresentation.

180.115(21) Failing to exercise due care in the delegation of optometric services to or supervision of assistants, employees or other individuals, whether or not injury results.

645—180.116(272C) Reporting of judgments or settlements. Each licensee shall report to the board every adverse judgment in a malpractice action to which the licensee is a party and every settlement of a claim against the licensee alleging malpractice. The report, together with a copy of the judgment or settlement, must be filed with the board within 30 days from the date of said judgment or settlement.

645—180.117(272C) Investigation of reports of judgments and settlements. Reports received by the board from the commissioner of insurance, insurance carriers and licensees involving adverse judgments in a professional malpractice action, and settlement of claims alleging malpractice, which involve acts or omissions which constitute negligence, careless acts or omissions in the practice of optometry, shall be reviewed and investigated by the board in the same manner as is prescribed in these rules for the review and investigation of written complaints.

645—180.118(272C) Reporting of acts or omissions. Each licensee having firsthand knowledge of acts or omissions set forth in rule 180.115(272C) shall report to the board those acts or omissions when committed by another person licensed to practice optometry. The report shall include the name and address of the licensee and the date, time and place of the incident.

645—180.119(272C) Failure to report licensee. Upon obtaining information that a licensee failed to file a report required by rule 180.118(272C) within 30 days from the date the licensee initially acquired the information, the board may initiate a disciplinary proceeding against the licensee who failed to make the required report.

645—180.120(272C) Immunities. A person shall not be civilly liable as a result of filing a report or complaint with the board or peer review committee, or for the disclosure to the board or its agents or employees, whether or not pursuant to a subpoena of records, documents, testimony or other forms of information which constitute privileged matter concerning a recipient of health care services or some other person, in connection with proceedings of a peer review committee, or in connection with duties of the board. However, such immunity from civil liability shall not apply if such act is done with malice.

645—180.121(272C) Privileged communications. The privilege of confidential communication between the recipient and the provider of health care services shall not extend to afford confidentiality to medical records maintained by or on behalf of the subject of an investigation by the board, or records maintained by any public or private agency or organization, which relate to a matter under investigation. No provisions of Iowa Code section 622.10, except as it relates to an attorney of the licensee, or stenographer or confidential clerk of the attorney, shall be interpreted to restrict access by the board, its staff or agents to information sought in an investigation being conducted by the board.

Rules 180.112(272C) to 180.121(272C) are intended to implement Iowa Code sections 147.55, 272C.3, 272C.4, 272C.6, 272C.8, and 272C.9.

645—180.122(272C) Peer review committees.

180.122(1) Each peer review committee for the profession, if established, may register with the board of examiners within 30 days after the effective date of these rules or within 30 days after formation.

180.122(2) Each peer review committee shall report in writing within 30 days of the action, any disciplinary action taken against a licensee by the peer review committee.

180.122(3) The board may appoint peer review committees as needed consisting of not more than five persons who are licensed to practice optometry to advise the board on standards of practice and other matters relating to specific complaints as requested by the board. The peer review committee shall observe the requirements of confidentiality provided in Iowa Code chapter 272C.

This rule is intended to implement Iowa Code sections 272C.4, 272C.5 and 272C.6.

645—180.123 to 180.199 Reserved.

645—180.200(155A) Prescription drug orders. Each prescription drug order furnished in this state by a therapeutically certified optometrist shall meet the following requirements:

180.200(1) Written prescription drug orders shall contain:

- a. The date of issuance;
- b. The name and address of the patient for whom the drug is dispensed;
- c. The name, strength, and quantity of the drug, medicine, or device prescribed;
- d. The directions for use of the drug, medicine, or device prescribed;
- e. The name, address, and written signature of the practitioner issuing the prescription;
- f. The federal drug enforcement administration number, if required under Iowa Code chapter 204; and
- g. The title, "Therapeutically Certified Optometrist" by the name of the practitioner issuing the prescription.

180.200(2) The practitioner issuing oral prescription drug orders shall furnish the same information required for a written prescription, except for the written signature and address of the practitioner.

This rule is intended to implement Iowa Code section 155A.27.

645—180.201 to 180.299 Reserved.

PROCEDURES FOR USE OF CAMERAS
AND RECORDING DEVICES
AT OPEN MEETINGS

645—180.300(21) Conduct of persons attending meetings.

180.300(1) The person presiding at a meeting of the board may exclude a person from an open meeting for behavior that obstructs the meeting.

180.300(2) Cameras and recording devices may be used at open meetings provided they do not obstruct the meeting. If the user of a camera or recording device obstructs the meeting by the use of such device, the person presiding may request the person to discontinue use of the camera or device. If the person persists in use of the device or camera, that person shall be ordered excluded from the meeting by order of the board member presiding at the meeting.

These rules are intended to implement Iowa Code sections 147.2, 147.3, 147.10, 147.11, 147.29, 147.49, 147.54, 147.80, 154.3, 154.6, 155A.27, 272C.2, and 272C.3.

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∅Two separate ARCs